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Ser. No. 10/510,057
APPEAL BRIEF dated August 22, 2008

PATENT
PU020097
Customer No. 24498

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

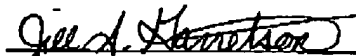|		
Appellants	:	Scott Allan Kendall, et al.
Serial No.	:	10/510,057
Filed	:	October 4, 2004
Title	:	**BROWSER WITH SETTING SAVING FEATURE**
Art Unit	:	2155
Examiner	:	Edward J. Kim

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

In response to the Final Office Action dated March 21, 2008 and the Advisory Action dated May 28, 2008, and further to the Notice of Appeal filed on June 23, 2008, Appellants hereby submit an Appeal Brief in accordance with 37 C.F.R. §41.37 for the above-referenced application.

CERTIFICATE OF TRANSMISSION

I hereby certify that this Appeal Brief is being transmitted via facsimile to Mail Stop Appeal Brief - Patents, Commissioner for Patents, Box 1450, Alexandria, Virginia 22313-1450 on August 22, 2008 at facsimile number (571) 273-8300:

Jill A. Garretson
Jill S. Garretson

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1

Ser. No. 10/510,057
APPEAL BRIEF dated August 22, 2008

PATENT
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I. Real Party in Interest

The real party in interest is Thomson Licensing LLC.

II. Related Appeals and Interferences

There are no prior or pending appeals, interferences, or judicial proceedings known to appellant, the appellant's legal representative, or assignee which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in this appeal. .

III. Status of Claims

Claims 1-21 are pending in this application, and are rejected. The rejection of claims 1-21 is being appealed.

IV. Status of Amendments

No amendment subsequent to the final rejection of March 21, 2008 has been filed.

V. Summary of Claimed Subject Matter

Independent claim 1 defines a method of communicating electronic information using a browser (page 3, lines 9-10). The method comprises the steps of: a. invoking the browser in a display device (page 3, lines 10-11); b. accessing a web page in response to a viewer specifying a URL in the browser (page 3, line 11; page 7, lines 22-27); c. retrieving a viewer adjustable setting for the URL from a memory (page 7, lines 28-29); d. applying the retrieved viewer adjustable setting to the web page (page 7, lines 29-32); e. automatically saving a current state of the viewer adjustable setting in the memory in response to a signal for exiting the web page (page 8, lines 6-8); and f. automatically applying the current state of the viewer adjustable setting to the web page a next time the web page is accessed (page 3, lines 14-15).

2

Ser. No. 10/510,057   PATENT
APPEAL BRIEF dated August 22, 2008   PU020097
                                                                         Customer No. 24498

Independent claim 5 defines a method of displaying a web page with a user-preferred format setting for the web page (page 3, lines 16-17). The method comprises the steps of: a. receiving a user input representing the user-preferred format setting for the web page while the web page is displayed (page 3, lines 17-18; page 8, lines 2-4); b. automatically storing the user-preferred format setting in association with a URL for the web page in response to a signal for exiting the web page (page 3, lines 18-19; page 8, lines 6-8); and c. automatically applying the user-preferred format setting to the web page a next time the web page is accessed (page 3, lines 19-21).

Independent claim 11 defines a system (element 10) for processing requests for web pages comprising: a. means (element 21) for fetching a web page upon receipt of a URL request (page 7, lines 22-27); b. means (element 24) for receiving a user adjustable format preference for the web page (page 8, lines 2-4); c. means (element(s) 22/23) for automatically storing a current user adjustable format preference for the web page in response to a signal for exiting the web page (page 8, lines 6-8); and d. means (element 21) for automatically applying the current user adjustable format preference to the web page a next time the web page is fetched (page 3, lines 19-21).

Independent claim 16 defines a computer program embodied on a computer readable medium for displaying a web page with user-preferred formatting for that web page (page 3, lines 16-17; page 7, lines 22-24). The computer program comprises: a. a code segment for receiving user adjustable format selections for a displayed web page (page 8, lines 2-4), and for automatically storing a current user adjustable format selection in association with a URL for the displayed web page in response to a signal for exiting the displayed web page (page 8, lines 6-8); b. a code segment for receiving a next request for the URL, and for automatically retrieving the current user adjustable format selection in response to the next request (page 3, lines 19-20); and c. a code segment for automatically displaying the web page with the current user adjustable format selection in response to the next request (page 3, lines 20-21).

3

Ser. No. 10/510,057   PATENT
APPEAL BRIEF dated August 22, 2008   PU020097
                                                                          Customer No. 24498

VI. Ground of Rejection to be Reviewed on Appeal

The rejection of claims 1-21 under 35 U.S.C. §103(a) over U.S. Patent No. 7,149,982 issued to Duperrouzel et al. (hereinafter, "Duperrouzel") in view of U.S. Patent No. 7,177,915 issued to Kopchik (hereinafter, "Kopchik") is presented for review in this appeal.

VII. Argument

The rejection of claims 1-21 under 35 U.S.C. §103(a) over Duperrouzel in view of Kopchik should be reversed for at least the following reasons.

On pages 4, 5, 7 and 9 of the final Office Action dated March 21, 2008, the Examiner admits that Duperrouzel fails to disclose at least one element of the claimed invention, namely "that the settings [for a web page] are automatically saved [in response to a signal for exiting the web page]" as required by independent claims 1, 5, 11 and 16. In an attempt to remedy this deficiency of Duperrouzel, the Examiner relies on Kopchik.

In response, Appellants note that Kopchik does not constitute prior art against the instant application under any subsection of 35 U.S.C. §102, and therefore, can not be properly used to reject claims 1-21. In particular, Kopchik's earliest effective filing date is its U.S. filing date of December 31, 2002. The instant application, however, claims the benefit, under 35 U.S.C. §365 of International Application PCT/US03/10057, filed April 2, 2003, which was published in accordance with PCT Article 21(2) on October 23, 2003 in English (WO 03/088083) and which claims the benefit of U.S. Provisional Patent Application No. 60/370,522, filed April 5, 2002. Accordingly, Kopchik does not constitute prior art against the instant application, and the admitted deficiencies of Duperrouzel can not be remedied by Kopchik.

4

Under item 11 of the Advisory Action dated May 28, 2008, the Examiner responds to Appellants' foregoing argument by stating:

> "The Applicant argues that 'Kopchik does not constitute prior art against the application under any subsection of 35 U.S.C. 102, and thereby can not be properly used to reject claims 1-21'. Examiner respectfully disagrees. The Application claims the benefit of U.S. Provisional Patent Application No. 60/370,522, filed April 5, 2002. However, the Provisional Patent Application No. 60/370,522 does not disclose in detail all of the claimed features, and therefore does not allow one of ordinary skill in the art to acknowledge whether the Applicant had possession of the claimed features at that time." (emphasis added)

As indicated above, the Examiner alleges (for the first time during the prosecution) that the claims currently under appeal are not entitled to the benefit of the filing date of Appellants earlier filed U.S. provisional patent application because the latter "does not allow one of ordinary skill in the art to acknowledge whether the Applicant had possession of the claimed features at that time." That is, the Examiner ostensibly alleges that Appellants' earlier filed U.S. provisional patent application (i.e., U.S. Provisional Patent Application No. 60/370,522) does not satisfy the "written description" requirement of 35 U.S.C. §112, first paragraph, with respect to the pending claims.

In response, Appellants first note that the Examiner has not met his initial burden of proof to support the allegation that Appellants' earlier filed U.S. provisional patent application (i.e., U.S. Provisional Patent Application No. 60/370,522) does not satisfy the "written description" requirement of 35 U.S.C. §112, first paragraph. Under U.S. Patent Law, it has long been held that the Examiner has the initial burden of proof in establishing a rejection or deficiency under 35 U.S.C. §112, first paragraph. That is, the Examiner has the initial burden of presenting evidence or reasoning to explain why persons skilled in the art would not recognize a description of the invention defined by the claims in the original disclosure (i.e., in this case, U.S. Provisional Patent Application No. 60/370,522). See, for example, *In re Wertheim*, 541 F.2d 257, 263, 191 USPQ 90, 97 (CCPA 1976) ("[T]he PTO has the initial burden of presenting evidence or

5

Ser. No. 10/510,057   PATENT
APPEAL BRIEF dated August 22, 2008   PU020097
                                         Customer No. 24498

reasons why persons skilled in the art would not recognize in the disclosure a description of the invention defined by the claims.").

In this case, the Examiner has not presented any "evidence or reasons why persons skilled in the art would not recognize in the disclosure a description of the invention defined by the claims", as required under the law. Rather, the Examiner has simply made an unsupported, blanket allegation that "...the Provisional Patent Application No. 60/370,522 does not disclose in detail all of the claimed features, and therefore does not allow one of ordinary skill in the art to acknowledge whether the Applicant had possession of the claimed features at that time" (see again item 11 of the Advisory Action dated May 28, 2008). This bare allegation is clearly insufficient to meet the Examiner's required initial burden of proof.

Despite the Examiner's failure to meet his required initial burden of proof, the Appellants will hereinafter show, for purposes of example only, that independent claim 1 is supported by U.S. Provisional Patent Application No. 60/370,522 (attached herewith as evidence exhibit 1) such that one of ordinary skill in the art would clearly acknowledge that the Appellant had possession of the claimed features at the time of its filing.

6

Ser. No. 10/510,057   PATENT
APPEAL BRIEF dated August 22, 2008   PU020097
                                                          Customer No. 24498

Independent Claim 1	Exemplary Support in U.S. Provisional Patent Application No. 60/370,522
A method of communicating electronic information using a browser, the method comprising the steps of:	Page 1, paragraph 1, lines 1-6 clearly discloses that the described system relates to communicating information using a browser.
a. invoking the browser in a display device;	Page 1, paragraph 1, lines 1-6 clearly discloses that the described system involves invoking a browser in a display device.
b. accessing a web page in response to a viewer specifying a URL in the browser;	Page 1, paragraph 4, lines 1-7 clearly discloses that the described system involves accessing a web page via a URL.
c. retrieving a viewer adjustable setting for the URL from a memory;	Page 3, sole paragraph, lines 1-4 clearly discloses that the described system "remembers" previous display settings which are retrieved and applied to a website the next time it is displayed.
d. applying the retrieved viewer adjustable setting to the web page;	Page 3, sole paragraph, lines 1-4 clearly discloses that the described system applies previous display settings to a website the next time it is displayed.
e. automatically saving a current state of the viewer adjustable setting in the memory in response to a signal for exiting the web page; and	Page 1, paragraph 4, lines 3-4 clearly discloses that "[w]hen a page is left, e,.g., to go to another page, the parameters [settings] are saved."
f. automatically applying the current state of the viewer adjustable setting to the web page a next time the web page is accessed.	Page 3, sole paragraph, lines 1-4 clearly discloses that the described system "remembers" previous display settings which are applied to a website the next time it is displayed.

As indicated above, independent claim 1 is clearly supported by U.S. Provisional Patent Application No. 60/370,522 such that one of ordinary skill in the art would clearly acknowledge that the Appellant had possession of the claimed features at the time of its filing. The remaining independent claims 5, 11 and 16 include features similar to independent claim 1, and therefore, are also considered to be clearly supported by U.S. Provisional Patent Application No. 60/370,522. As such, Appellants submit that the pending claims are entitled to the benefit of the April 5, 2002 filing date of U.S. Provisional Patent Application No. 60/370,522. Accordingly, the later-filed Kopchik

7

reference does not constitute prior art against the instant application under any subsection of 35 U.S.C. §102, and therefore can not be properly used to reject claims 1-21.

For at least the foregoing reasons, Appellants submit that claims 1-21 are patentable over the proposed combination of Duperrouzel and Kopchik, and respectfully request that the Board reverse the rejection of claims 1-21.

8

Ser. No. 10/510,057   PATENT
APPEAL BRIEF dated August 22, 2008   PU020097
                                                                             Customer No. 24498

VIII. Claims Appendix

1.   A method of communicating electronic information using a browser, the method comprising the steps of:

    a.   invoking the browser in a display device;

    b.   accessing a web page in response to a viewer specifying a URL in the browser;

    c.   retrieving a viewer adjustable setting for the URL from a memory;

    d.   applying the retrieved viewer adjustable setting to the web page;

    e.   automatically saving a current state of the viewer adjustable setting in the memory in response to a signal for exiting the web page; and

    f.   automatically applying the current state of the viewer adjustable setting to the web page a next time the web page is accessed.

2.   The method of claim 1 wherein the viewer adjustable setting includes at least one of a text setting and a graphics setting.

3.   The method of claim 1 wherein the web page is displayed on a display other than a computer monitor selected from a television screen, a cell phone, and a personal data assistant.

4.   The method of claim 1 wherein the URL is specified in the browser by entering the URL in an address box field in the web browser, by clicking on a hyperlink, or by selecting a favorite or bookmark from a stored list.

5.   A method of displaying a web page with a user-preferred format setting for the web page, the method comprising the steps of:

    a.   receiving a user input representing the user-preferred format setting for the web page while the web page is displayed;

    b.   automatically storing the user-preferred format setting in association with a URL for the web page in response to a signal for exiting the web page; and

9

Ser. No. 10/510,057   PATENT
APPEAL BRIEF dated August 22, 2008   PU020097
                                                      Customer No. 24498

    c.   automatically applying the user-preferred format setting to the web page a next time the web page is accessed.

    6.   The method of claim 5 wherein the user-preferred format setting includes at least one of text and graphics sizing.

    7.   The method of claim 6 wherein the web page is displayed on a display other than a computer monitor selected from a television screen, a cell phone, and a personal data assistant.

    8.   The method of claim 5 wherein the web page is accessed the next time by a user clicking on a hyperlink in a different web page, by a user entering the URL for the web page in an address box on a web browser, or by a user selecting a favorite or bookmark from a stored list.

    9.   The method of claim 5 wherein the user-preferred format setting is stored in association with the URL for the web page in at least one of a history registry and a favorites registry.

    10.   The method of claim 5 wherein previously selected formats are stored in association with corresponding URLs in a history registry and/or with corresponding URLs in a favorites registry.

    11.   A system for processing requests for web pages comprising:
    a.   means for fetching a web page upon receipt of a URL request;
    b.   means for receiving a user adjustable format preference for the web page;
    c.   means for automatically storing a current user adjustable format preference for the web page in response to a signal for exiting the web page; and
    d.   means for automatically applying the current user adjustable format preference to the web page a next time the web page is fetched.

12. The system of claim 11 wherein the user adjustable format preference includes at least one of a text preference and a graphics preference.

13. The system of claim 11 comprising a microprocessor, application program, storage, and I/O components.

14. The system of claim 13 fu rther comprising a display selected from a television screen, a cell phone display, and a personal data assistant display.

15. The system of claim 11 having means to deliver a web browser to a display, means to receive user selections, and means to format web pages according to stored user preferences associated with a corresponding URL.

16. A computer program embodied on a computer readable medium for displaying a web page with user-preferred formatting for that web page, the computer program comprising:

a. a code segment for receiving user adjustable format selections for a displayed web page, and for automatically storing a current user adjustable format selection in association with a URL for the displayed web page in response to a signal for exiting the displayed web page;

b. a code segment for receiving a next request for the URL, and for automatically retrieving the current user adjustable format selection in response to the next request; and

c. a code segment for automatically displaying the web page with the current user adjustable format selection in response to the next request.

17. The computer program of claim 16, wherein the code segment for receiving the user adjustable format selections stores the current user adjustable format selection in a primary memory.

11

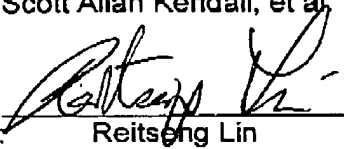Ser. No. 10/510,057   PATENT
APPEAL BRIEF dated August 22, 2008 ·   PU020097
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18.   The computer program of claim 16, wherein the code segment for receiving the user adjustable format selections stores the current user adjustable format selection in a secondary memory.

19.   The computer program of claim 16, wherein the code segment for receiving the user adjustable format selections stores the current user adjustable format selection in association with the URL in a history registry and/or in a favorites registry.

20.   The computer program of claim 16, wherein the code segment for receiving the next request for the URL receives the next request from a user clicking on a hyperlink in a different web page, entering the URL in an address box on a web browser, or selecting a favorite or bookmark from a stored list.

21.   The computer program of claim 16, wherein one of the user adjustable format selections is text size.

12

IX. Evidence Appendix

U.S. Provisional Patent Application No. 60/370,522.

Ser. No. 10/510,057
APPEAL BRIEF dated August 22, 2008

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PATENT
PU020097
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X. Related Proceedings Appendix

None.

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14

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Ser. No. 10/510,057   PATENT
APPEAL BRIEF dated August 22, 2008   PU020097
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Respectfully submitted,

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Patent Operations
Thomson Licensing LLC
P.O. Box 5312
Princeton, New Jersey 08540

August 22, 2008

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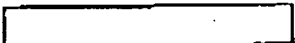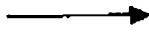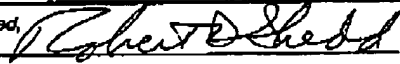
PROVISIONAL APPLICATION FOR PATENT COVER SHEET

This is a request for filing a PROVISIONAL APPLICATION FOR PATENT under 37 CFR 1.53 (c).

Express Mail Label No. EL675023954US

INVENTOR(S)		
Given Name (first and middle [if any])	Family Name or Surname	Residence (City and either State or Foreign Country)
SCOTT ALLAN	KENDALL	WESTFIELD, INDIANA
WANDA GREEN	THOMPSON	INDIANAPOLIS, INDIANA

☐ Additional inventors are being named on the _____ separately numbered sheets attached hereto

TITLE OF THE INVENTION (280 characters max)

WEB SITE FORMATTING RECALL FOR USE WITH HISTORY AND/OR FAVORITES

CORRESPONDENCE ADDRESS

Direct all correspondence to:

☐ Customer Number

OR

Type Customer Number here

Place Customer Number Bar Code Label here

☒	Firm or Individual Name	JOSEPH S. TRIPOLI, THOMSON MULTIMEDIA LICENSING INC.
	Address	PATENT OPERATIONS.
	Address	P. O. BOX 5312

City	PRINCETON	State	NJ	ZIP	08543-5312
Country	USA	Telephone	609-734-9444	Fax	609-734-9700

ENCLOSED APPLICATION PARTS (check all that apply)

☒ Specification *Number of Pages* 3

☐ Drawing(s) *Number of Sheets*

☐ Application Data Sheet. See 37 CFR 1.76

☐ CD(s), Number

☐ Other (specify)

METHOD OF PAYMENT OF FILING FEES FOR THIS PROVISIONAL APPLICATION FOR PATENT (check one)

☐ Applicant claims small entity status. See 37 CFR 1.27.

☐ A check or money order is enclosed to cover the filing fees

☒ The Commissioner is hereby authorized to charge filing fees or credit any overpayment to Deposit Account Number: 07-0832

☐ Payment by credit card. Form PTO-2038 is attached.

FILING FEE AMOUNT ($) 160

The invention was made by an agency of the United States Government or under a contract with an agency of the United States Government.

☒ No.
☐ Yes, the name of the U.S. Government agency and the Government contract number are: _____.

Respectfully submitted,
SIGNATURE _____

TYPED or PRINTED NAME   Robert D. Shedd

TELEPHONE 609 734-9517

Date   4/5/02

REGISTRATION NO. (if appropriate)   36,269

Docket Number: PU020097

USE ONLY FOR FILING A PROVISIONAL APPLICATION FOR PATENT

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WEB SITE FORMATTING RECALL FOR USE WITH HISTORY AND/OR FAVORITES

A system as described herein involves providing for using a display device, such as a TV screen, to read and properly view web pages. For devices such as TV screens, this may require that users tweak the format of pages either by changing text size or graphic size. When saving the location of these pages for recall by using "history" or "favorites" menu options on some browsers, the described system saves formatting parameters such that when the page is recalled, it will look the same as when the user last saw it.

Display devices such as TV screens have lower resolution than computer monitors. This makes viewing web pages using a TV screen problematic because the text needs to be much larger proportional to the screen size than on a computer monitor. To solve this problem, the exemplary system described herein includes a browser having a feature to increase text size to make it more readable. While it might be possible to make all text larger for all pages, this would force the browser to reformat the pages to accommodate the disproportionately large text. Another aspect of the system described herein is that the browser provides graphic resizing. This is useful because words are often created using graphics which differs from the typical manner of creating text by using bytes corresponding to specific characters. In order for these words in graphic form to be readable they must be enlarged as well. Making these two parameters, text size and graphics size, variable improves web page viewing.

Another aspect of the described system is as follows. Many people visit the same sites over and over. While browsers typically have history and favorites to allow easy recall of pages, they do not recall how the page was formatted when last viewed. On computers this is not a big issue because in general pages are designed to work with computer monitors and rarely need reformatting, but for TV viewing it is an issue. The described system also allows users to recall formatting associated with frequented websites as desired.

The system involves saving a history and/or favorites list of URLs with two parameters. The browser will have several levels of text magnification and graphics magnification. These two parameters can be saved along with the URL. When a page is left, e,.g., to go to another page, the parameters are saved. Each URL loaded will be checked against the history and favorites list of URLs. If there is a match, the saved parameters are used to format the page. The following figures show how resizing of text and graphics might be used to improve web-site viewing.

1

Figure 1. Website CNN using 150% text magnification.

In Figure 1, the text is normal size or 100%. It might be difficult to read this page. If so, the user might choose to magnify the text to 150%. Notice the text resizing GUI button at the bottom of the screen. When text is normal size one light is lit, when 125%, two lights are lit, and in figure 2 at 150% all three lights are lit on the button. In figure 2, the text is more readable, but the user may find that the reformatting of the page to be worse than the small text. Notice that the caption "ON CNN TV" must wrap on the magnified version, but does not on the normal (no magnification) version. Various levels of magnification offer the user flexibility. Figures 3 and 4 illustrate the need for graphics magnification as well as text magnification. Figure 3 is normal magnification. This site uses text created by using graphics. In figure 3, the hypertext links to the far left are unreadable, but are readable in figure 4.

2

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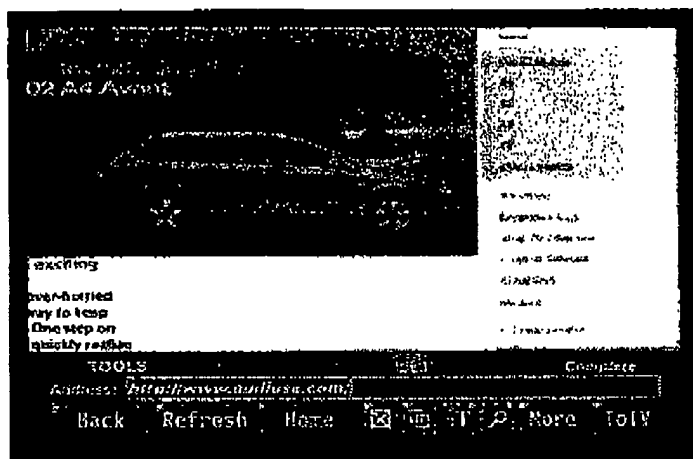

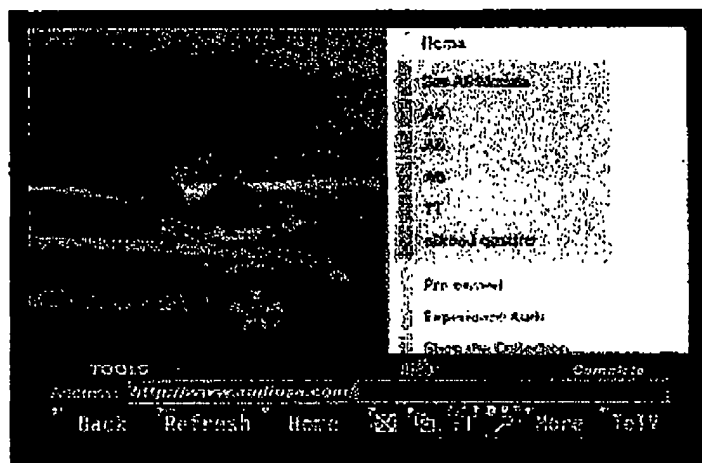Figure 3 Website audiusa at normal magnification.

Figure 4. Website audiusa magnified 150%.

Another aspect of the system described herein is that the browser remembers how the site was last displayed, e.g., the values of the graphics magnification and text magnification parameters, so that the next time this site is displayed, it will be automatically formatted to the appropriate magnification settings.

3